

**GOVERNMENT OF ANDHRA PRADESH**  
**ABSTRACT**

**Accommodation - Residential – Request for sale of Govt. Quarters located at Madannapet Colony, Hyderabad to the existing Occupants including (11 retired employees) – Request - Rejected - Orders Issued.**

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**GENERAL ADMINISTRATION (ACCOM.C1) DEPARTMENT.**

**G.O.Ms.No. 95**

**Date : 6-2-2012.**

**Read the following :**

1. Representation of Secretary, Madannapet Colony (Govt. Employees) Welfare Association, Hyderabad dt.25.5.1999 received through M.P., Nagar Kurnool, Lr.dt.25.5.1999.
2. G.O.Ms.No.225, G.A(Accom.B) Dept, dt.30-7-2003.
3. Representation dt.4.11.2003 from President, Madannapet Colony (Govt. Employees) Welfare Association, Hyderabad and Reprn. Dt.3.12.2003 from Dr.M.Jagannath, M.P Nagarkurnool received with CM Office Note dt.6.12.2003.
4. Govt.Memo.No.148917/Accom.B2/2003-1, Dt.26.2.2004.
5. Representation of the President & Others, Madannapet Colony Govt Employees Welfare Association, dt.2-7-2004.
6. Representation of A.P.Pensioners' Forum, Hyderabad dt.11.9.07 with CMO Note No.10284/CMP/2007, dt.13.9.2007.
7. Representation dt.13.9.2007 from Madannapet Colony (Govt. Employees) Welfare Association, Hyd and representation of A.P.Pensioners' Forum, Hyderabad dt.14.9.2007 with CMO Note No.10756/CMP/2007, dt.29.9.2007.
8. Orders of the Hon.High Court in No.WP.18103/2007& Batch, dt.14.12.2007.

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**ORDER:**

This case pertains to disposal of representations made by the petitioners in Writ Petition No.18103 and batch of 2007 as per orders of the Hon.High Court dt.14.12.2007.

2. Briefly, the history of the case is as follows:

2.1 The A.P. Housing Board, during the year 1965 constructed 144 Flats at Madannapet Colony, Hyderabad for the purpose of selling them to the general public on hire purchase basis. The Housing Board could sell only 71 flats between 1965 and 1969 and the remaining 73 flats could not be sold for want of demand from the general public.

2.2 During the year 1976, Government purchased the 73 un-sold flats from the A.P.Housing Board and allotted to the Govt. employees on rental basis.

2.3 During 1999, the Secretary and Others of Madannapet Colony (Govt., Employees) Welfare Association (here-in-after called the Association), through Member of Parliament, Nagar Kurnool, vide ref. 1<sup>st</sup> cited, have filed a representation before the Govt. to consider the sale on hire purchase basis of the Govt. Quarters under their occupation on the following grounds:

2.3.1 The composition of quarters at Madannapet Colony was peculiar and typical. In one block of 4 flats, there were both types of occupants i.e., who had purchased on hire purchase basis and who had been allotted on rental basis by Government which was not the case anywhere else in the State. In the blocks where both type of persons i.e., hire purchase owners and Government employees were residing, the hire purchase owners had become owners after paying easy installments whereas the Government employees remained as tenants only, though the rent paid and house rent allowance dis-allowed from the pay bills had exceeded the cost of flats. Therefore, there may not be any objection if the Government takes a decision to sell these flats to the present occupants.

2.3.2 Madannapet Colony was situated in Old City surrounded by slum areas and 19 flats out of 73 were vacant for the past several years even after allotment due to the location and frequent disturbances.

2.3.3 This Colony was constructed by the Housing Board for the purpose of sale to general public. Instead of purchasing, Government should have asked the Housing Board to allot these flats to the employees on hire purchase basis. The purchase by the Government and in-turn allotment to Government employees on rental basis was against the policy of the Government and Housing Board.

2.3.4 The policy of the Government was to provide food and shelter to its subjects. In conformity with that policy, Government ordered for sale of Government sector quarters to the rent paying existing occupants on hire purchase basis in Adilabad, Srikalahasti and Jagityal Municipalities and Housing Board colonies at Yakutpura, Domulaguda, Vijaya Nagar, Sanathnagar, Vidya Nagar and Amberpet.

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2.3.5 In view of the precedent cases, keeping in view, the peculiar situation of both hire purchase owners and Government employees on rental basis residing in the same block, and the fact that Government had already realized the cost of flats, it has been requested to consider the case for sale of these flats to the present occupants on hire purchase basis as a special case.

2.4 After obtaining report from the Field Officers, the matter was referred to the Cabinet Sub Committee (CSC) on Resource Mobilization and Expenditure Control. The CSC has met on 16.4.2003 and after discussion did not recommend the approval of the proposal as this would create a precedent for the future. Government accepted the recommendations of the CSC. Accordingly orders were issued vide ref. 2<sup>nd</sup> cited rejecting the request of the Association.

2.5 In the reference 3<sup>rd</sup> cited once again representation was filed by the Association narrating the same grounds as mentioned in the ref. 1<sup>st</sup> cited. The matter was examined and it was found that after detailed examination and on the basis of recommendations of the Cabinet Sub-Committee, the request had already been rejected in the ref. 2<sup>nd</sup> cited. Therefore, the request was again rejected vide ref.4<sup>th</sup> cited.

2.6 Once again in the reference 5<sup>th</sup> cited, the President and some members of the Association have made a representation to Government. There was no new ground or contention in this representation and it was a mere copy of the earlier representations ref.1<sup>st</sup> and 3<sup>rd</sup> cited.

2.7 Meanwhile, due to filing of Public Interest Litigation in Civil Appeal No.4064/2007 against unauthorized occupation of Govt. quarters in Hon.Supreme Court, Government have issued G.O.Ms.No.321 G.A.(Accom.B) Dept. dt.7.5.2007 prescribing penal rent for all Government quarters which were under unauthorized occupation. As a consequence, some of the retired Government servants/occupants have filed WP.18103/2007& Batch before the High Court of Andhra Pradesh against the notice dt.22.6.2007, issued by the Estate Officer, Hyderabad. Further, the retired Government employees through A.P.Pensioners' Forum, Hyderabad (here-in-after called the Forum) have filed a representation to Hon.CM vide ref.6<sup>th</sup> cited mentioning that the penal rent was beyond their capacity and have requested to take early steps for the settlement of the sale of flats on par with Housing Board norms.

2.8 The Association and the Forum have filed more representations vide ref.7<sup>th</sup> cited repeating the points mentioned in the earlier representations.

2.9 The Hon.High Court, vide ref. 8<sup>th</sup> cited, has disposed of the WPs with the following orders;

"The respondents are directed to consider and dispose of the representations made by the petitioners expeditiously. Till final orders are passed on the representations of the petitioners, the respondents are directed not to take any coercive steps against the petitioners in pursuance of the impugned demand notices, for collection of penal rent. In the event, the petitioners suffer any adverse order, they are at liberty to assail the same in appropriate proceedings."

3. In order to take action as per the orders of the Hon.High Court, it was thought appropriate that the inspection reports may be obtained from the Estate Officer and the Collector, Hyderabad. After obtaining the reports, the matter has been examined in detail in consultation with Law Dept. and keeping in view the observations of the Hon.Supreme Court in Civil Appeal No.4064/2004.

4. The main issues in the case and their detailed examination is as follows:

**4.1 Issue No.1 Whether there is any provision in the Rules to sell Govt. quarters to the employees who have been allotted the quarters on rent?**

The Rules in respect of allotment of Govt. quarters i.e., Allotment of Govt. Quarters Rules, 1973 were issued in G.O.Ms.No.248 dated 17<sup>th</sup> May 1973. There is no provision in these Rules to sell Govt. quarters to the employees who have been allotted the same on rent.

It may be relevant to mention here that Hon.Supreme Court in its order dt.26.11.2008 in Civil Appeal No.4064/2004 had directed the Chief Secretary to file an affidavit in respect of the same petitioners "whether there was any Rule under which Govt. quarter can be allowed to be purchased by an unauthorized occupant and if so details of Rules should be furnished in the affidavit". The Chief Secretary, in the affidavit filed in pursuance to the above directions, informed the Hon. Apex Court that there is no provision "**to sell the Government Quarters to any occupant**".

Therefore, the issue is answered in the negative.

**4.2 Issue No.2 Are there any precedent cases where Govt. quarters have been sold to the employees who have been allotted the quarters on rent.**

The petitioners have mentioned about certain precedent cases. A list of such cases is shown in the Annexure. From this it can be seen that all the precedent cases quoted by the petitioners pertain to sale of quarters constructed for general public under various schemes by A.P.Housing Board or Municipalities etc. These cases do not pertain to Government Colonies constructed or purchased by Government for the purpose of allotting to employees on rental basis. It is a normal business for the Housing Board or the Municipalities to construct and sell quarters for various categories of general public. They have their own norms to sell these quarters. If they need any relaxation they may approach the Government as has been done in the cases quoted above. These norms cannot be applied to the Govt. quarters constructed or purchased by Govt. solely for the purpose of providing temporary accommodation only to its working employees on rental basis.

Therefore, the above mentioned cases cannot be treated as precedent cases. Otherwise also, there are no such cases where Govt. quarters have been sold to the employees who have been allotted the quarters on rent.

Therefore, the issue is answered in the negative.

**4.3 Issue No.3 Whether the case of Madannapet Colony can be treated as a peculiar and different case from other Govt. colonies.**

The Petitioners have requested to treat this colony as a peculiar and different case from other Govt. colonies on the plea that both types of persons i.e., who purchased on hire purchase basis and who were allotted on rent basis were residing in the same block. Obviously, this cannot be a ground to treat this colony as a peculiar and distinct case from other Govt. colonies. The flats once purchased by the Govt. become part of a Govt. colony just like any other Govt. colony. Whether the flats are in one block or scattered in different blocks does not change the nature of ownership or the class of the Govt. colony.

Therefore, the issue is answered in the negative.

**4.4 Issue No.4 Whether there is any legal right or humanitarian ground for the petitioners to insist on the sale of Govt. quarters to them.**

As already mentioned, Rules do not contain any provision for the sale of Govt. quarters. The employees are entitled to stay in these quarters till retirement and after that they have to vacate. So neither the working employees nor the retired employees have any legal right to insist that the flats under their occupation on rent must be sold to them. These petitioners are on the same footing as any other Govt. employee. They do not have either any legal right or any humanitarian ground to claim a different treatment for them.

Therefore, the issue is answered in the negative.

5. Besides above issues, the petitioners have also raised some other points which are examined as follows:

**5.1 That the colony was in old city surrounded by slum areas and many flats were vacant due to location and frequent disturbances and also the A.G. had pointed out to loss of revenue to Govt. on that account.**

The location of the colony and vacancy of flats including loss of revenue are of no concern to the petitioners. It is for the Government to look after its property and its usage. This cannot be a ground to sell the flats in favour of the petitioners.

**5.2 That the colony was constructed by the Housing Board for the purpose of sale to general public and its purchase by the Govt. was against the policy of the Govt.**

It is true that the colony was constructed by the Housing Board for sale to general public but when certain flats could not be sold, Govt. have purchased these flats to allot to its employees on rental basis. There is no violation of any policy of the Govt. in the matter. Govt. can either construct its own colony or purchase from any other source including Housing Board. No right of the petitioners is affected by this.

**5.3 That some of the Officers had recommended to consider their case favourably treating it as a distinct case**

It is true that a few Officers in their reports have recommended the case of the petitioners to treat it as a distinct case. However, the final decision was taken at the level of Government. Therefore, the petitioners cannot quote the reports of the Officers to insist for a decision in their favour as the reports are for internal use and their recommendations cannot override the decisions of the Government.

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6. It is note worthy that as back as in the year 2003, Govt. had examined the case in great detail and even referred it to the Cabinet Sub-Committee who in their wisdom did not approve the proposal mainly for the fear that it would create a precedent for the future. The same situation continues even today. As discussed in Para 4.3, although the petitioners have tried to show it as a peculiar and different case yet in effect it is not so. There is an imminent danger that if Govt. agrees to the request of the petitioners in this case, it would open a flood gate of such requests from many other colonies and it would be difficult for the Govt. to justify that the case of Madannapet Colony stood on a different footing.

7. It would be relevant to mention that Hon.Supreme Court, in Civil Appeal No.4064/2004 in its order dt.2.8.2007, has taken a very serious view of unauthorized occupation of Government quarters and the Hon.Court wanted to know "why the appropriate Government/Authority/Body/High Court be not directed to consider desirability of initiating proceeding under the relevant Service Rule and suspend the unauthorized occupants which includes Judicial officers in contemplation of departmental proceeding as such conduct of theirs is unbecoming of Judicial officers/Government servants and in future also, no sooner occupation of a person becomes unauthorized, such action be taken immediately."

8. From the examination of the issues and other points raised by the petitioners, the recommendations of the Cabinet Sub-Committee, earlier decisions of Government and the observations of the Hon.Supreme Court in above paras, it becomes clear that the petitioners have been unnecessarily making repeated representations without any new grounds and their case does not have any merit or basis for the Government to reconsider their decision. Therefore, Government hereby reject the representations of the petitioners.

9. The Estate Officer, Hyderabad shall take further necessary action accordingly.

**( BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH )**

**J.C.SHARMA**  
**PRINCIPAL SECRETARY TO GOVT. (ACCOM.)**

To  
The President, Government Employees Welfare Association, Madannapet Colony, Hyderabad.  
The Engineer-in-Chief (R&B), Erramanzil, Hyderabad.  
The Chief Engineer (R&B), Erramanzil, Hyderabad.  
The Executive Engineer (R&B), South Building Division, Khairatabad, Hyderabad.  
The Estate Officer, Hyderabad and Secunderabad, Khairatabad, Hyderabad.  
The Registrar, HCAP, Hyderabad.  
The G.P.for G.A.D, HCAP, Hyd with a request to dispose off the W.Ps pending in the matter early.

**Copy to :**

The P.S to Prl.Secy. to C.M.  
The P.S to C.S.  
Sri Asaduddin Owaisi, A.P, Darusalam, Aghapura, Hyderabad-1.  
Sri Manda Jagannath, M.P, Nagar Kurnool, 17-1-382/V/2/11, Vaishali Nagar Colony, Champapet, Hyderabad-79 & r/o Qtr.No.B-27/F4, Madannapet Colony, Hyderabad.  
The Secy; Legal Services Authority, CCC, Hyderabad.  
The Chairman, A.P.Pensioner's Forum, Hyderabad.  
All Departments of Secretariat.  
All Heads of Departments.  
TR&B (B-II) Department.  
Law Department.  
SC/SF.

**// FORWARDED :: BY ORDER //**

**SECTION OFFICER**

**(PTO-5)**

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**ANNEXURE**

**List of Precedent Cases quoted by the Petitioners of Madannapet Colony**

<b>S.No.</b>	<b>Order</b>	<b>Subject</b>
1	G.O.Ms.No.130 (Housing) dt.23.12.1969	Sale of quarters constructed by A.P.Housing Board at Yakutpura and Domulaguda under slum clearance scheme to existing occupants.
2	Govt.Memo.No.462/ D3/76-14, Housing dt.3.1.1977	Sale of quarters constructed under LIGH Scheme by Nellore Municipality to existing tenants.
3	Govt.Memo.No.483/ D2/77-6, Housing dt.28.10.1977	Sale of quarters constructed under LIGH Scheme by Chirala Municipality to existing tenants.
4	G.O.Ms.No.1 (Housing) dt.2.1.1993	Sale of quarters constructed under LIGH Scheme by Nandyal Municipality to existing tenants.
5	G.O.Ms.No.20 (Housing) dt.11.3.1993	Sale of quarters constructed under LIGH Scheme at Vikarabad to existing tenants.
6	G.O.Ms.No.7 (Housing) dt.12.1.1995	Sale of quarters constructed under LIGH Scheme by Srikalahasti Municipality to existing tenants.
7	G.O.Ms.No.10 (Housing) dt.23.2.1995	Sale of quarters constructed under LIGH Scheme by Jagityal Municipality to existing tenants
8	G.O.Ms.No.90 (Housing) dt.2.12.1995	Sale of quarters constructed under LIGH Scheme at Adilabad District to existing tenants

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